

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST MILLER,

Plaintiff,

v.

THEODORE KUBICKI, et al.,

Defendants.

No. 1:20-cv-00812-DAD-BAM (PC)

ORDER DISMISSING ACTION DUE TO
PLAINTIFF'S FAILURE TO PAY FILING
FEE

(Doc. No. 16)

Plaintiff Ernest Miller is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 29, 2020, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's application to proceed *in forma pauperis* under 28 U.S.C. § 1915(g) be denied because plaintiff had suffered three or more prior strike dismissals and that he be ordered to pay the required \$400.00 filing fee in order to proceed with this action. (Doc. No. 12.) On August 14, 2020, the undersigned adopted those findings and recommendations, denied plaintiff's motion to proceed *in forma pauperis*, and ordered plaintiff to pay the required \$400 filing fee in full within twenty-one (21) days. (Doc. No. 16.) Plaintiff was cautioned that his failure to comply with that order and pay the required filing fee within the specified time would result in dismissal of this action. (*Id.* at 2.)

1 In lieu of paying the required filing fee, on September 14, 2020, plaintiff filed a motion
2 for reconsideration of the court's order adopting the findings and recommendations and requiring
3 plaintiff to pay the filing fee in order to proceed with this action. (Doc. No. 17.) On December
4 30, 2020, the court denied plaintiff's motion for reconsideration. (Doc. No. 18.) On January 26,
5 2021, the order denying reconsideration served upon plaintiff by mail at his address of record was
6 returned to the court as "undeliverable, attempted; unknown." Plaintiff was required by rule to
7 file a notice of change of address with this court by April 5, 2021.

8 To date, plaintiff has not paid the required filing fee or requested an extension of time in
9 which to do so, and the deadline to pay the required filing fee has now passed. Plaintiff has also
10 failed to file a notice of change of address with the court as required, or otherwise communicate
11 with the court regarding this action.

12 Accordingly,

- 13 1. This action is dismissed without prejudice due to plaintiff's failure to pay the
14 required filing fee;
- 15 2. All pending motions (Doc. Nos. 9, 10) are terminated; and
- 16 3. The Clerk of the Court is directed to close this case.

17 IT IS SO ORDERED.

18 Dated: **April 12, 2021**

19 
UNITED STATES DISTRICT JUDGE